

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SIMONE M. HARDISON)
v.) No. 3:10-0171
SOCIAL SECURITY ADMINISTRATION) Judge Wiseman/Bryant

To: The Honorable Thomas A. Wiseman, Jr., Senior Judge

REPORT AND RECOMMENDATION

This Social Security appeal was filed *pro se* on February 22, 2010. (Docket Entry No. 1) After defendant answered the complaint and filed a transcript of the record of administrative proceedings, a briefing schedule was entered by the undersigned, under which plaintiff was given thirty days to file a motion for judgment on the administrative record and supporting brief. (Docket Entry No. 15) Sixty days after entry of the briefing schedule, defendant filed a motion to show cause why the complaint should not be dismissed for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b)¹; this motion was granted, and plaintiff was directed to show cause by June 30, 2010. (Docket Entry No. 23) On June 30, 2010, plaintiff filed for a 30-day extension of the deadline so that she could seek representation of counsel (Docket Entry No. 22), and the requested extension was granted. (Docket Entry No. 24) On July 21, 2010, ten days in advance of her deadline to show cause why her complaint should not be dismissed, plaintiff filed a motion for appointment of

¹Rule 41(b) of the Federal Rules of Civil Procedure states that “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” Dismissals pursuant to this rule may also be accomplished by the court in the absence of a defense motion. *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991).

counsel to assist her. (Docket Entry No. 26) By order entered July 22, 2010, the motion for appointment of counsel was denied by the undersigned. (Docket Entry No. 27)

As of the date of this report, plaintiff has made no further filing, nor any attempt to prosecute her case or show cause for her failure to do so as directed in the undersigned's orders. Having forewarned plaintiff that her failure to show cause may result in a recommendation that her complaint be dismissed (Docket Entry No. 23), and having given her all the deference due a *pro se* litigant, the Magistrate Judge now recommends that plaintiff's complaint be DISMISSED for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b).

Any party has fourteen (14) days from receipt of this Report and Recommendation in which to file any written objections to it with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985); Cowherd v. Million, 380 F.3d 909, 912 (6th Cir. 2004)(en banc).

ENTERED this 5th day of November, 2010.

s/ John S. Bryant
JOHN S. BRYANT
UNITED STATES MAGISTRATE JUDGE